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EXAMINER

EDELL, JOSEPH F

ART UNIT

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3636

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/796,406	Applicant(s) AERTS, CHAD	
	Examiner Joseph F. Edell	Art Unit 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 and 32-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 and 32-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-30 and 34-39 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification does not describe the fabric piece not disposed between the base element and a securing member in such as way as to reasonably convey to one skilled in the art that the inventor had possession of the claimed invention at the time of filing. See Diagram A below for illustrations at to what Figures 5, 12, 13, and 15 teach regarding this limitation.

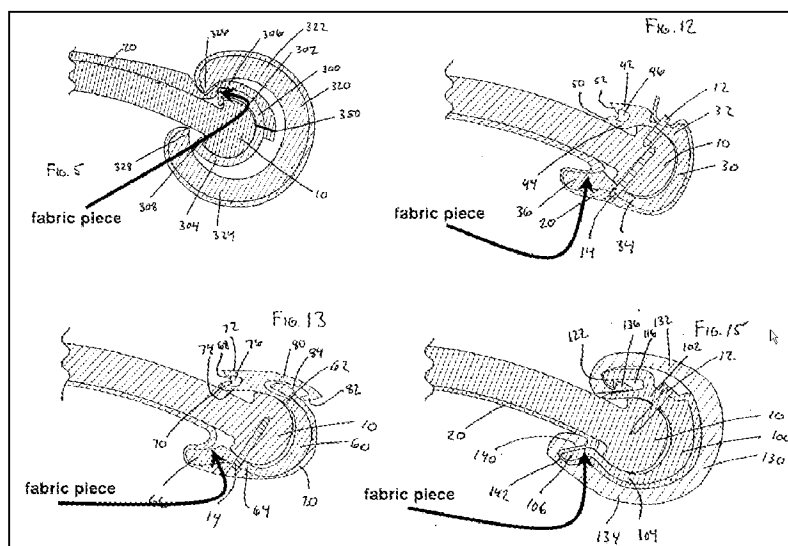


Diagram A - Annotated Figures 5, 12, 13, and 15 of Application

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 20, 21, and 24-27, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 2,526,912 to Swanson.

Swanson discloses a furniture component that includes all the limitations recited in claims 20, 21, and 24-27, as best understood. Swanson shows a furniture component having a base element 1 (see Fig. 1) including a generally rounded edge portion 12 with a thickness greater than that of the base element, a securing member 22,82 with first and second arms and outer and inner surfaces, inwardly facing ridges (enlarged edges of the first and second arms) that engage the base element at the enlarged edge portion, and a piece of fabric 81 attached to an outer surface of the securing member wherein the inner surface is disposed around an entirety of the edge portion, the first and second arms are disposed on opposite sides of the base element, the channel has an interior and a mouth, the interior has a width greater than the width of the mouth, and the width of the mouth is smaller than the thickness of the enlarged edge portion.

Please note that the fabric piece 81 is not disposed between the rounded edge portion 12 of the base element 1 and the securing member 22,82

With respect to claim 24, the claim is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Swanson because Swanson teaches the furniture component that appears to be the same as, or an obvious variant of, the furniture component set forth in the product-by-process claim 24 although produced by a different process.

Claims 14, 16-18, 20, and 24-27, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,750,300 to Winger.

Winger discloses a component that includes all the limitations recited in claims 14, 16-18, 20, and 24-27, as best understood. Winger shows a component having a base element 36 (see Fig. 2) including a generally rounded edge portion (at end of lip 34) with a thickness greater than that of the base element, a securing member 16 with first and second arms and first and second channels, and a piece of fabric 38 disposed around an outer surface of the securing member and within the second channel wherein the fabric piece is not disposed between the base element and the securing member, the securing member includes a gripping member (indentation near the edge of the second channel), the first arm and the gripping member defining at least in part the second channel, the gripping member has a ridge extending inwardly towards the first arm, the first channel opens in a first direction and the second channel opens in a second direction different from the first direction attached to an outer surface of the securing member, an inner surface of the securing member defined in part by the first and second arms and disposed around an entirety of the edge portion of the base element, the first arm includes an inwardly facing ridge (indentation near the edge of the

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first channel) engaging the base element, the first and second arms of the securing member disposed on opposite sides of the base element, the channel has an interior and a mouth, the interior has a width greater than the width of the mouth, and the width of the mouth is smaller than the thickness of the enlarged edge portion.

Please note that Examiner reasonably interprets "fabric" as an artifact made by weaving or felting or knitting or crocheting natural or synthetic fibers.

With respect to claim 24, the claim is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Winger because Winger teaches the component that appears to be the same as, or an obvious variant of, the component set forth in the product-by-process claim 24 although produced by a different process.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 14, 16, and 17, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,723,816 to Selbert et al. in view of U.S. Patent No. 1,594,282 to Trimble and in view of U.S. Publication No. 20030168901 A1 to Wilkerson et al.

Selbert et al. disclose a furniture component that is basically the same as that recited in claims 14, 16, and 17, as best understood, except that the base element lacks an edge portion with a greater thickness than that of the base element and the fabric piece is disposed between the base element and the securing member, as recited in the claims. See Figure 4 of Selbert et al. for the teaching that the furniture component has a base element 28 with an edge portion, a securing member 24 with first and second arms 52,50 and first and second channels (first channel formed by arms 50,52 and second channel formed by arms 54), a fabric piece 18 disposed around an outer surface of the securing member and within the second channel, and a gripping member 56 of the securing member including a ridge extending inwardly toward the first arm wherein the edge portion being disposed in the first channel and the first and second arms on the opposite sides of the base element, and the gripping member and first arm define, at least in part, the second channel.

Trimble shows a furniture component similar to that of Selbert et al. wherein the base element 1 (see Fig. 1) has an edge portion 2 that has a thickness greater than a thickness of the base element. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the furniture component of Selbert et al. such that the edge portion has a thickness greater than a thickness of the base element, such as the furniture component disclosed by Trimble. One would have been motivated to make such a modification in view of the suggestion in Trimble that the enlarged edge portion of the base element provides a bead shaped to facilitate holding of a fabric piece.

Wilkerson et al. show a furniture component similar to that of Selber et al. wherein the furniture component has a base element 23 (see Fig. 6B), a securing member 51, and a piece of fabric 49 attached to the securing member and not disposed between the base element and the securing member. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the furniture component of Selbert et al. such that the fabric piece is not disposed between the base element and the securing member, such as the furniture component disclosed by Wilkerson et al. One would have been motivated to make such a modification in view of the knowledge generally available to one skilled in the art that the fabric not being disposed between the base element and securing member utilizes less fabric per chair resulting in less raw material being required in manufacturing each chair.

Claims 14, 16-21, 24, 25, 29, and 30, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,586,807 to Taggart in view of U.S. Patent No. 1,594,282 to Trimble.

Taggart discloses a furniture component that is basically the same as that recited in claims 14, 16-21, 24, 25, 29, and 30, as best understood, except that component lacks a base element with an enlarged edge portion, as recited in the claims. See Figures 2 and 4 of Taggart for the teaching that the furniture component has a base element 23, a securing member 100 with first and second arms 116,118 and first and second channels 120,136, an inner surface of the securing member is defined in part by the first channel and disposed around the base element, a fabric piece 146 disposed

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around an outer surface of the securing member, attached to the outer surface of the securing member, and within the second channel, and a gripping member 144 of the securing member including a ridge extending inwardly toward the first arm wherein the base element is disposed in the first channel and the first and second arms on the opposite sides of the base element, the gripping member and first arm define, at least in part, the second channel, the fabric piece is not disposed between the base element and the securing member, the first channel opens in a first direction and the second channel opens in a second direction different from the first direction, the base element forms part of a backrest/chair.

Trimble shows a furniture component similar to that of Taggart wherein the base element 1 (see Fig. 1) has an edge portion 2 that has a thickness greater than a thickness of the base element. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the furniture component of Taggart such that the base element includes an edge portion with a thickness greater than a thickness of the base element, such as the furniture component disclosed by Trimble. One would have been motivated to make such a modification in view of the suggestion in Trimble that the enlarged edge portion of the base element provides a bead shaped to facilitate holding the fabric in place.

With respect to claim 24, Taggart, as modified, teaches a furniture component that appears to be the same as, or an obvious variant of, the component set forth in the product-by-process claim 24 although produced by a different process.

Claims 1, 8, 9, 11-13, 15, 19-22, 24, 25, 29, 30, 34, and 36-39, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Selbert et al. in view of Trimble and Wilkerson et al. as applied to claims 14, 16, and 17, as best understood, above, and further in view of U.S. Patent No. 6,478,381 B1 to Cramb, III et al.

Selbert et al., as modified, disclose a furniture component that is basically the same as that recited in claims 1, 8, 9, 11-13, 15, 19-22, 24, 25, 29, 30, 34, and 36-39, as best understood, except that the furniture component lacks a second securing member with first and second arms and the base element is not specified as forming part of a backrest, as recited in the claims. See Figure 3 of Selbert et al. for the teaching that the furniture component has a second member 47 wherein the entirety of the first securing member is disposed within the second member with the fabric piece 18 secured between the first securing member and second member and directly contacting the second member, and that the first member has a channel (formed by legs 54) with a portion of the fabric is inserted into the channel; and see column 1, line 56 for the teaching that the securing member is made of a thermoplastic material.

Cramb et al. show a furniture component similar to that of Selbert et al. wherein the component has a base element 34 (see Fig. 2), a fabric piece 40 of elastomeric fabric, and a securing member 48 with first and second arms and a channel therebetween such that the fabric piece is secured between the first and second arms of the securing member and directly contacting the securing member, the base element forms part of backrest of compliant material with a pattern of holes, and the securing

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member being made of a thermoplastic elastomer material. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the furniture component of Selbert et al. to replace the fabric with the elastomeric fabric and to include a second securing member with first and second arms and a second channel therebetween wherein an entirety of the first securing member is disposed within the second channel, with the first and second arms of the first securing member adjacent the respective first and second arms of the second securing member, with the fabric piece secured between the first arm of the first securing member and the first arm of the second securing member and directly contacting the second securing member, the base element forms part of backrest of compliant material with a pattern of holes, and the first and second securing members collectively forming a securing member having an inner layer made of thermoplastic material and an outer layer made of thermoplastic elastomer material, such as the furniture component disclosed by Cramb et al. One would have been motivated to make such a modification in view of the suggestion in Cramb et al. that the backrest with side bolsters and center elastomeric fabric reduces the weight of the vehicle seat.

With respect to claims 34 and 36-38, Selbert et al., as modified, lack only the specifically recited method steps. It would have been obvious, if not inherent, to one having ordinary skill in the pertinent art at the time the invention was made to attach the fabric to the furniture component/chair of Selbert et al., as modified, by the claimed method steps. Such a modification provides a conventional and efficient method of attaching the fabric to a furniture component/chair of Selbert et al., as modified.

Claims 2-4, 10, 32, 33, and 35, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Selbert et al., as modified, in view of Cramb et al. as applied to claims 1, 8, 9, 11-13, 15, 19-22, 25, 29-31, 34, and 36-39 above, and further in view of U.S. Patent No. 3,302,260 to Cuddeback.

Selbert et al., as modified, disclose a furniture component that is basically the same as that recited in claims 2-4, 10, 32, 33, and 35 except that the first securing member lacks a third channel and the second securing member lacks a ridge disposed in the third channel, as recited in the claims. Cuddeback shows a furniture component similar to that of Selbert et al. wherein the furniture component has a first member 35 (see Fig. 3) with a ridge 36, a second member 32 with a channel 37, a fabric piece 20 disposed around the first member, and the ridge disposed in the channel. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the furniture component of Selbert et al. such that the first securing member has first and second ridges, the second securing member has first and second ridges wherein the first and second ridges are disposed in the respective third and fourth channels, such as the furniture component disclosed by Cuddeback. One would have been motivated to make such a modification in view of the suggestion in Cuddeback that the ridge and channel configuration retains the first and second member in connection. With respect to the second ridge and fourth channel, one skilled in the art would have known to include additional ridges disposed in channels as the duplication of parts has no patentable significance.

Claims 5-7 and 28, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Selbert et al., as modified, in view of Cramb et al. as applied to claims 1, 8, 9, 11-13, 15, 19-22, 25, 29-31, 34, and 36-39 above, and further in view of U.S. Patent No. 3,423,775 to Cockerill.

Selbert et al., as modified, disclose a furniture component that is basically the same as that recited in claims 5-7 and 28, as best understood, except that the first securing member lacks fasteners on opposite sides of the first channel, as recited in the claims. Cockerill shows a furniture component similar to that of Selbert et al. wherein the furniture component has a securing member (see Fig. 3) with a channel including a plurality of nail fasteners 17 on opposite sides of the channel. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the furniture component of Selbert et al. such that the first securing member has a plurality of fasteners engaging the first securing member on opposite sides of the first channel wherein the fasteners are nails and correspond to spaced notches, such as the furniture component disclosed by Cockerill. One would have been motivated to make such a modification in view of the suggestion in Cockerill that the oppositely spaced fasteners bite onto both sides of the seat cover edge.

Claim 18, as best understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Selbert et al. in view of Trimble and Wilkerson et al. and as applied to claims 14, 16, and 17 above, and further in view of Taggart.

Selbert et al., as modified, disclose a furniture component that is basically the same as that recited in claim 18, as best understood, except that the first channel is not

specified as opening in a direction different than that of the second channel, as recited in the claims. Taggart shows a furniture component similar to that of Selbert et al. wherein the furniture component has a first channel¹²⁰ (see Fig. 3) opening in a first direction and a second channel ¹³⁶ opening in a second direction different from the first direction. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the furniture component of Selber et al. such that the first channel opens in a first direction and the second channel opens in a second direction different from the first direction, such as the furniture component disclosed by Taggart. One would have been motivated to make such a modification in view of the suggestion in Taggart that the differently opening channels provide for retention of members disposed in different directions.

Allowable Subject Matter

Claim 23, as best understood, is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 1st paragraph, set forth in this Office Action.

Response to Arguments

Applicant's arguments filed 28 November 2007 have been fully considered but they are not persuasive. With respect to Applicant's argument that the Swanson fails to teach element of amended claim 20 because the fabric ⁸¹ of Swanson is disposed

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between the base element 1 and the securing member 21, Examiner agrees with Applicant's initial assessment of Swanson but disagrees about the overall teachings of Swanson. Swanson teaches adjacent rounded edge portions 11,12 of the base element 1. A piece of fabric 81 of Swanson is attached to the outer surface of the securing member 22,82 (interpreted as both the strip and the panel) where the fabric 81 is not disposed between the rounded edge portion 12 of the base element and the securing member 22,82. Therefore, Swanson teaches each and every element of amended claim 20.

Applicant's arguments with respect to claims 14, 16, and 17 as being obvious over Selbert et al. in view of Trimble have been considered but are moot in view of the new ground(s) of rejection.

Applicant argues that the combination of Selbert et al., as modified, in view of Cramb et al. is improper because Selbert et al. teach the desirability of the disclosed foam and fabric. Applicant's argument is unpersuasive for two reasons. Firstly, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. Secondly, advances in vehicle seat fabric technology have allowed for seat with improved breathability and cushioning, decreased cost, and being lighter in weight. This technology is taught in Cramb et al. wherein the elastomeric fabric, in conjunction with the second securing member, provides a lightweight seat with increased breathability. Therefore, one skilled in the art would have been motivated to modify the furniture component of Selbert et al., as modified, in view of Cramb et al.

Applicant also argues that the combination of Selbert et al., as modified, in view of Cramb et al. fail to teach a removeable first securing member and a releasable fabric member. Please note that Examiner reasonably interprets "removeably" as capable of being removed, and "releasably" as capable of being released. As opposed to the language asserted in Applicant's Remarks, claim 1 recites the "first securing member is releasably disposed within the second channel." The combination of Selbert et al., as modified, in view of Cramb et al. teach a first securing member capable of being releasedly disposed within the second channel, and the fabric piece capable of being releasedly secured between the first arms. Moreover, any two items which are connected are capable of being removed from each other, regardless of the type of connection present between the two items. Although, in some case, an increased force may be required to enable such removal, the two items are still removable from one another. In this instance, the fabric and foam may be removed given the necessary force and appropriate solvents.

With respect to Applicant's argument that Examiner has failed to provide a reason why it would have been obvious to one skilled in the art to modify Selbert et al., as modified, with Cuddeback, see the above rejection setting forth motivation to combine the references. Applicant asserts that claim 32 requires a "releasable" connection with the first and second securing members. However, this language is not recited in claim 32.

With respect to Applicant's argument that Examiner has failed to provide a single reason why it would be proper to combine Cockerill with Selbert et al, as modified, see the above rejection setting forth motivation to combine the references.

With respect to Applicant's argument that Examiner has failed to provide a single reason why it would have been obvious to combine the teachings of Taggart with Selbert et al., as modified, see the above rejection setting forth motivation to combine the references. Moreover, Applicant argues that the functions of the attachment devices of Taggart and Selbert et al. are significantly distinct such that the combination of the references is improper. However, the attachment devices of these references are sufficiently similar to warrant combination because both address the issue of attaching fabric to vehicle seat components via plastic/metal profiles, i.e. securing members.

Upon consideration of Applicant's argument, the rejections of claims 1-30 and 32-39 remain.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (571) 272-6858. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Joseph F Edell/
Primary Examiner, Art Unit 3636
February 29, 2008